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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,409	07/03/2003	David J. Good	3023.PKG	4461

7590

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EXAMINER

SCHATZ, CHRISTOPHER

ART UNIT PAPER NUMBER

1733

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,409

Applicant(s)

GOOD ET AL.

Examiner

Christopher T. Schatz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 8, 10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated Mehaffy et al. (EP 0934990A1).

Mehaffy discloses a low application hot melt temperature adhesive that is applied at or below 200°F and wherein the bonded adhesive heat stress value and the adhesive application temperature are separated by 100°F or less (paragraph 0033, Table 1). Specifically, paragraph 0033 states that the adhesive can be applied at 200°F and that “a bond formed by two pieces of corrugated case substrate held together by a 1/2" by 2" compressed bead can maintain a cantilever stress load of 2 to 2.5 psi for 24 hours at temperatures at or above 115 degree F.” Examiner interprets 115°F as the heat stress value. Table 1 also discloses similar heat stress values. This interpretation is based on applicant’s specification which states “Heat stress is defined herein as being the temperature at which a stressed bond fails” (page 5). While the specification does go on to recite a specific heat stress test on page 6 of the application, examiner asserts that the claim is not limited to said test. The specification states that the test *may* be used

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to measure heat stress, not that it *is* used. As such, this test is only a suggest method and does not limit the claims.

As to claim 8, Mehaffy et al. discloses an article of manufacture comprising the adhesive of claim 1 (paragraph 0034). As to claim 10, Mehaffy et al. discloses the article of manufacture is a carton, case, tray or bag (paragraph 0034). As to claims 12 and 13, Mehaffy et al. discloses a packaged food article contained within a carton, case, tray or bag wherein the carton, case, tray or bag contains the adhesive of claim 1 (paragraph 0034).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mehaffy et al.

Mehaffy et al. discloses a hot-melt adhesive as discussed above, and further discloses that said adhesive is thermally stable at application temperature for a period of one hundred hours (paragraph 0033). While the reference does not explicitly state “as indicated by a viscosity change within plus/minus ten percent of the originally application viscosity,” examiner asserts that because Mehaffy et al. and the application disclose the same adhesive, one of ordinary skill in the art would have readily understood that because the adhesive of Mehaffy is thermally stable at application temperature for one hundred hours then its viscosity will not change by more than

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ten percent. More specifically, applicant states that the adhesive of the instant application comprises: EVA copolymer from about 10% to 60%, a tackifying component with a Ring and Ball softening point between 70°C and 150°C, and paraffin wax from Moore & Munger from 10% to 60% (pages 9-11). Applicant should note that Mehaffy et al. discloses a hot melt adhesive with the same components and compositions (paragraphs 0009-0018, 0029). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art that the viscosity of the hot melt adhesive disclosed by Mehaffy will not change by more than ten percent when said adhesive is subjected to the thermal stability test at application temperature for one hundred hours.

5. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehaffy et al.

Mehaffy et al. discloses a hot melt adhesive as discussed above. The reference, however, is silent as to the crystallization properties of the adhesive when analyzed by differential scanning calorimeter from application temperature to room temperature at a cooling rate of 150 degree C/min. However, as established in paragraph 4 above, Mehaffy et al. discloses the same adhesive as the instant application. As such, at the time of the invention it would have been obvious to a person of ordinary skill in the art that the adhesive disclosed by Mehaffy et al. would have the same crystallization properties recited by applicant in claim 4.

As to claim 9, the claim is a combination of claims 4, 5, and 8, and applicant is referred to the discussion of said claims above for the reasons as to why the reference meets the limitations of said claims.

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6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehaffy et al. as applied above, and further in view of Baetzold et al. '913.

Mehaffy et al. discloses a hot melt adhesive as stated above, and the reference further discloses that "other additives" can be added depending on the end use of said adhesive. The reference is silent as to whether or not said additives comprise a fragrance or an energy-absorbing ingredient. Baetzold et al. discloses a hot melt adhesive which can be used in packaging (column lines 10-12), and further discloses that the presence of fragrances and energy absorbing ingredients is well known in the art (abstract, column 4, lines 17-31). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to add a fragrance and/or an energy-absorbing ingredient to the hot melt adhesive of Mehaffy et al. because the use of said ingredients is well known as taught by Baetzold et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher T. Schatz** whose telephone number is **571-272-1456**. The examiner can normally be reached on 8:00-5:30, Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CTS

A handwritten signature in black ink, appearing to read "Richard Crispino", written in a cursive style.

**RICHARD CRISPINO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700**